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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/749,656 | 12/28/2000 | Fabrice Della Mea | Q62485 | 8724 |
| 23373 | 7590 | 09/13/2005 | EXAMINER | |
| SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | RAMPURIA, SHARAD K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2683 | |

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/749,656 | DELLA MEA, FABRICE | |
| | Examiner | Art Unit | |
| | Sharad Rampuria | 2683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9-14,19 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1,9-14,19 and 22 is/are rejected.
- 7) ☒ Claim(s) 2-8 and 15-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

Response to Amendment

I. Claims 20-21 are allowed as in previous office action.

Claim Objections

II. Claims 2-8, 15-18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed on 6/23/2005 have been considered but they are not persuasive.

III. Applicant respectfully disagrees about the cited passage in the given references.

However, the determination of obviousness is still based upon the Oestreich references as follows.

Oestreich still teaches the traffic load (bottlenecks, failure of TFO) cause transcoding to change.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

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In this case, Oestreich teaches a method and a radio communication system for transmitting speech information. Also Watanabe teaches a mobile communication system wherein: it is possible to communicate on the basis of an optimum speech coding scheme which is matched to the speech coding schemes provided by the radio zones and the speech coding capability of the mobile stations; to provide a setup of traffic channels which can be carried out smoothly; and to provide an optimum speech coding scheme which can be selected on the basis of a control station decision. Therefore the combination of above references is obvious to one of ordinary skill in the art.

For the above reasons, it is believed that the rejections should be sustained as follows:

Claim Rejections - 35 USC § 103

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 13-14, 19 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. [US 5991642] (hereinafter Watanabe) in view of Oestreich [US 6349197] (hereinafter Oestreich).

As per claims 1, 13, 19 and 22, Watanabe teaches:

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A method of establishing a mode for a mobile station to mobile station and cell to cell call in a cellular mobile telephone system. (Col.4; 35-47 and Col.8; 41-53)

Watanabe does not specifically teach a step of selecting a common coding mode for each mobile station and the selection of a common coding mode takes account of the traffic load in at least one cell. However, Oestreich teaches in an analogous art, that method includes a step of selecting a common coding mode (Col.2; 47-57) for each mobile station and the selection of a common coding mode takes account of the traffic load in at least one cell. (TFO or bottleneck; Col.4; 36-44) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a step of selecting a common coding mode for each mobile station and the selection of a common coding mode takes account of the traffic load in at least one cell in order to provide the variable transmission conditions with respect to the speech coding/decoding method.

Watanabe does not specifically teach a tandem free operation mode. However, the applicant of present application (Della Mea) admitted in Background section of the invention “establishing TFO mode generally...each mobile...concerned”. (Pg.1; 0011) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a tandem free operation mode in order to optimize the quality of service.

Additionally, Watanabe does not specifically teach a tandem free operation mode. However, Oestreich teaches in an analogous art, that a method of establishing the tandem free operation mode for a mobile station to mobile station (TFO or bottleneck; Col.2; 47-57 and Col.4; 36-44) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a method of establishing the tandem free operation mode for a mobile

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station to mobile station in order to provide the variable transmission conditions with respect to the speech coding/decoding method.

As per claim 9, Watanabe teaches all the particulars of the claim except system is GSM. However, Oestreich teaches in an analogous art, that A method according to claim 1, wherein said system is GSM. (GSM; Col.3; 66-Col.4; 5) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include system is GSM in order to provide the particular system with respect to the speech coding/decoding method.

As per claim 14, Watanabe teaches all the particulars of the claim except a transcoder of each mobile station. However, Oestreich teaches in an analogous art, that A method according to claim 1, wherein a common coding mode is selected for a transcoder of each mobile station. (TFO or bottleneck; Col.4; 61-67) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a transcoder of each mobile station in order to provides a mobile communication system that can dynamically adaptation of a communication mode in the individual mobile station.

Claims 10-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe and Oestreich further in view of Mayer [US 2003/0195011] (hereinafter Mayer).

As per claims 10-12, the above combination teaches all the particulars of the claim except half-rate/full-rate mode. However, Mayer teaches in an analogous art, that a method according to

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claim 1, wherein one of said coding modes consuming the most resources is half-rate/full-rate mode. (pg.1; 0007) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include half-rate/full-rate mode in order to provide a method of transmitting data in GSM system.

Conclusion

V. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Friman et al. teaches a solution by means of which the telecommunication channel between the base station system and the mobile services switching center can be changed in an easier and more resource-saving manner. (Col.5; 58-Col.6; 10)

Yahagi teaches a mobile communication system, when a request for connection of a call is received, an exchange determines a coding rule or rules to be used by the two mobile stations to be connected. (Col.3; 58-Col.4; 13)

Galyas et al. disclose a technique of handover in mobile telephony, and more particularly to the use of distributed handover in the uplink direction.

Holma disclose a method for selection of the coding mode for a multi rate connection between a mobile station and a digital cellular telecommunication network.

Bonnard et al. discloses a method of transmitting data over a mobile telephone speech channel between a radio telephone terminal having a type of source encoding and a data transceiver unit via a mobile telephone network supporting at least one mode of communication

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without transcoding that can be set up between two mobile telephones having at least one type of source encoding in common.

Bruhn et al. discloses a method of mode handling in the field of communication systems and, more particularly, to determining coding modes in digital communication systems that support multiple speech/forward error correction coding schemes.

VI. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

VII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on Mon-Fri. (8:15-4:45).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2683

August 26, 2005


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